

Remarks

In the Office Action, the Examiner noted that independent claims 40 and 42 are directed statutory subject matter, relying on being tied to a machine. These claims are directed to statutory matter pursuant to the transformation prong rather than being tied to a machine. Both claims acquire data representing a patient and transform the data into a display of images. In *In re Bilski*, the CAFC cited to *In re Abele* 684 F.2d 902, 908, 214 U.S.P.Q. 682, 687 (C.C.P.A. 1982) for further clarification on the "transformation" prong. The CAFC clarified the CCPA's result by holding that the transformation of raw data representing physical and tangible objects into a particular visual depiction of a physical object on a display is sufficient to render a claimed process patent-eligible. *In re Bilski*, at 963, 88 U.S.P.Q.2d at 1397. Furthermore, "the electronic transformation of the data itself into a visual depiction in *Abele* was sufficient; the claim was not required to involve any transformation of the underlying physical object that the data represented." *Id.* Since claims 40 and 42 recites acquiring image data with a phase of a physiological cycle and displaying images generated from the data, claims 40 and 42 transform. Claims 40 and 42 are directed to statutory subject matter.

Claims 40 and 41 were rejected pursuant to 35 U.S.C. §103(a) as unpatentable over Sumanaweera, et al. (US 6,159,152) in view of Savord, et al. (US 5,993,390).

Applicants respectfully request reconsideration of the rejections of claims 40 and 41.

Independent claims 40 and 41 were rejected, in part, by reliance on Sumanaweera, et al. The present application was filed (Aug. 6, 1999) before any publication or issuance (Dec. 12, 2000) of Sumanaweera, et al. Sumanaweera, et al. is a 102(e) reference used for a 103(a) rejection. Sumanaweera, et al. was assigned to Acuson Corporation. The present application and Sumanaweera, et al. were at the time of invention of the present application, owned by or subject to an obligation to assign to Acuson Corporation. Pursuant to 103(c)(1), claims 40 and 41 are allowable.

Since the present application is still pending, 103(c) is applicable (see MPEP 706(l)(1)(I)).

Claims 42-46 were allowed. In a statement of reasons for allowance, the Examiner quoted portions of claim 42. Claim 42 may be allowable for other reasons.

CONCLUSION:

Applicants respectfully submit that all of the pending claims are in condition for allowance and seeks early allowance thereof.

PLEASE MAIL CORRESPONDENCE TO: Respectfully submitted,

Siemens Corporation
Customer No. 28524
Attn: Elsa Keller, Legal Administrator
170 Wood Avenue South
Iselin, NJ 08830

/Jenny G. Ko/
Jenny Ko, Reg. No. 44,190
Attorney(s) for Applicant(s)
Telephone: 650-694-5810
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